

SB 230 (Polanco) – The Moore Universal Telephone Service Act**As Amended February 12, 2002****Recommendation:** Oppose**Summary:**

This bill requires the California Public Utilities Commission (Commission) to:

- 1) Restructure the reimbursement rate for competitive local exchange carriers (CLECs) that provide Universal Lifeline Telephone Service (ULTS) to qualifying low-income households.
- 2) Reimburse CLECs that provide ULTS at a higher rate than incumbent local exchange carriers (ILECs) that provide ULTS. A small CLEC has filed a petition to modify D.00-10-028 with a reimbursement structure identical to the one proposed in SB 230.

Comments: This bill requires the Commission to reimburse CLECs that provide ULTS at a higher rate than ILECs that provide ULTS.

ANALYSIS: This bill proposes a ULTS reimbursement structure for CLECs as illustrated below:

# of ULTS Subscribers Served	Reimbursement Per ULTS Subscriber
Between 1 and 5,000	\$50.00 less monthly rate paid by ULTS subscriber
Between 5,001 and 10,000	\$40.00 less monthly rate paid by ULTS subscriber
Between 10,001 and 15,000	\$30.00 less monthly rate paid by ULTS subscriber
Between 15,001 and 20,000	\$20.00 less monthly rate paid by ULTS subscriber
Over 20,000	as received by the incumbent local exchange carrier (ILECs)

Currently, Pacific Bell and Verizon are receiving \$5.34 (i.e. \$10.68 for the regular residential flat-rate local telephone service less \$5.34 paid by ULTS subscriber) and \$11.91 (i.e. \$17.25 less \$5.34), respectively from the ULTS program. This bill would increase the draw by CLECs by as much as eight-fold of that received by the ILECs (i.e. \$50.00 less \$5.34 divided by \$5.34 received by Pacific Bell). Based on recent claims filed by the CLECs (six CLECs serving less than 57,000 ULTS customers), the proposed reimbursement structure would require an additional funding of \$18 million a year without any cost support, and/or additional benefits to ULTS and non-ULTS customers. We expect that number to increase significantly as the proposed reimbursement structure will encourage ILECs and CLECs to “game” the system to maximize their claims by spinning-off and/or forming new CLECs. Consequently, instead of assisting the greatest number of Californians to be connected to the telephone network, the program would become a business of profiting for carriers serving ULTS customers.

In Rulemaking proceeding 98-09-005, the Commission is considering the very same proposal advocated by a CLEC in its petition to modify D.00-10-028 filed on March 14, 2001. The threshold issue is whether, as a policy matter, the CLEC should be paid more to provide ULTS than the ILECs. If the Commission finds that the CLEC should be paid more, the issues then become how much more and how to prevent the CLEC from spinning-off and/or forming new

affiliates in order to maximize its reimbursement from the ULTS program. On October 30, 2001, the assigned Administrative Law Judge issued a ruling requiring the CLEC to submit financial and program information that is relevant to its petition. The Commission is hopeful that responses by the CLEC would provide adequate and supportive information to bring the company's petition to a conclusion.

This bill takes decision-making power away from the Commission in regard to ULTS rate reimbursement and could encourage both CLECs and ILECs to game the ULTS system for maximum gain.

Legislative Staff Contact:

Maria Bondonno, Legal Counsel

CPUC-OGA

Bill Julian, Director

CPUC-OGA

Angela Young, Regulatory Analyst

TELCO

bon@cpuc.ca.gov

(916) 324-8689

bj2@cpuc.ca.gov

(916) 327-1407

ayy@CPUC.ca.gov

(415) 703-2837

Date: April 14, 2002

Bill Lanaguage

BILL NUMBER: SB 230 AMENDED

BILL TEXT

AMENDED IN ASSEMBLY FEBRUARY 12, 2002

INTRODUCED BY Senator ~~Chesbro~~ Polanco

(Coauthors: Assembly Members Cardenas, Cedillo, Chavez, Firebaugh, Frommer, Lowenthal, Negrete McLeod, Oropeza, Pescetti, Runner, and Strickland)

FEBRUARY 14, 2001

~~An act to amend Section 46201 of, and to repeal Section 46202 of, the Education Code, relating to school finance.~~
An act to add Section 879.3 to the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 230, as amended, ~~Chesbro~~ Polanco
~~. School finance- Universal lifeline~~
~~telephone service .~~

The Moore Universal Telephone Service Act requires the Public Utilities Commission to establish a class of universal lifeline telephone service necessary to meet minimum residential communications needs and establish rates and charges for that service.

This bill would make findings and declarations pertaining to the need to provide a fair reimbursement mechanism for recovery of the lost revenues and operating expenses of competitive local exchange carriers in providing universal lifeline telephone service. The bill would require the commission to implement a reimbursement methodology for competitive local exchange carriers that recognizes the additional costs for delivery of universal lifeline telephone service. The bill would, to the extent funds are appropriated for this purpose, require the reimbursement rate to contain an incremental rate reduction as the numbers of subscribers served increases and cost of service economies of scale are reached.

~~Existing law requires the Superintendent of Public Instruction to determine a certain amount of principal apportionment if a school~~

~~district certified that it offered prescribed amounts of instructional time in the 1984-85, 1985-86, and 1986-87 fiscal years.~~

~~—Existing law requires the Superintendent of Public Instruction to reduce the base revenue limit for a school district that received the apportionment and thereafter reduced the amount of instructional time, except if the school district maintains the minimum number of instructional minutes in the 1990-91 fiscal year through the 1994-95 fiscal year, or through the 1995-96 fiscal year for certain districts.~~

~~—This bill would delete the exception for school districts that maintain the minimum number of instructional minutes in the 1990-91 fiscal year through the 1994-95 fiscal year, or through the 1995-96 fiscal year for certain districts.~~

~~—Under existing law, with certain exceptions, in any fiscal year in which the governing board of a school district offers less instructional time than the amount of instructional time established for the 1982-83 fiscal year, the Superintendent of Public Instruction is required to reduce that district's apportionment by the average percentage increase in the base revenue limit for districts of similar type and size, multiplied by the district's units of average daily attendance.~~

~~—This bill would repeal this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1. Section 46201 of the Education Code is~~

SECTION 1. The Legislature finds and declares the following:

(a) The Moore Universal Telephone Service Act (Article 8 (commencing with Section 871) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code) established the Universal Lifeline Telephone Service (ULTS) program in order to provide low-income households with access to affordable basic residential telephone service.

(b) Section 871.5 of the Public Utilities Code sets forth findings and declarations of the Legislature that provide that every means should be employed by the Public Utilities Commission and telephone corporations operating within service areas that furnish lifeline telephone service to ensure that every person qualified to receive lifeline telephone service is informed of, and afforded, the opportunity to subscribe to it.

(c) Data released by the Federal Communications Commission in October 2001 shows that nearly 10 percent of households in California earning below ten thousand dollars (\$10,000) per year do not have

residential telephone service.

(d) Currently, lifeline telephone service subscribers are served primarily by the incumbent local exchange carrier in their area. However, in enacting Section 709 of the Public Utilities Code, the Legislature declared that its telecommunications policy for the state includes a commitment to universal service and widespread availability of telecommunications service to all Californians through broader consumer choice. Further, Section 871.5 of the Public Utilities Code provides that the furnishing of universal lifeline telephone service should be implemented by the Public Utilities Commission in a way that is equitable, nondiscriminatory, and without competitive consequences for the telecommunications industry in California.

(e) Consistent with Sections 709 and 871 of the Public Utilities Code, universal lifeline telephone service subscribers must be afforded the benefits of consumer choice, for it is the universal lifeline telephone service subscriber, and not the Public Utilities Commission or the Universal Lifeline Telephone Service Trust Administrative Committee Fund, that is the ultimate consumer of universal lifeline telephone service.

(f) In April 2001, the Public Utilities Commission proposed a reimbursement methodology for those competitive local exchange carriers serving universal lifeline telephone service subscribers that arbitrarily attempted to tie reimbursement to the basic rate telephone service offered by incumbent local exchange carriers.

(g) In order to encourage competitive local exchange carriers to aggressively market and provide universal lifeline telephone service to all eligible subscribers, as intended by the Legislature, a fair reimbursement mechanism for recovery of the lost revenues and operating expenses of competitive local exchange carriers should be put into place by the Legislature. This mechanism should provide competitive local exchange carriers with reasonable reimbursement at a predetermined level, taking into account the additional costs competitive local exchange carriers incur in providing universal lifeline telephone service, while recognizing those costs may drop as customer levels grow and economies of scale can be reached.

SEC. 2. Section 879.3 is added to the Public Utilities Code, to read:

879.3. (a) The commission shall implement a reimbursement methodology for competitive local exchange carriers that recognizes the additional costs for delivery of universal lifeline telephone service by competitive local exchange carriers. The reimbursement rate shall contain an incremental rate reduction as the number of subscribers served increases and cost of service economies of scale can be reached. To the extent funds are appropriated from the Universal Lifeline Telephone Service Trust Administrative Fund for this purpose, the reimbursement rate for competitive local exchange carriers shall be structured as follows:

(1) Competitive local exchange carriers serving between 1 and 5,000 lifeline telephone service subscribers shall be reimbursed for lost revenues by the Universal Lifeline Telephone Service Trust Administrative Committee Fund at a tariffed rate of at least fifty dollars (\$50) per lifeline telephone service subscriber, less any charges received by the carrier directly from the lifeline telephone service subscriber.

(2) For each additional lifeline telephone service subscriber served by the competitive local exchange carrier over 5,000, and up to 10,000, the competitive local exchange carrier shall be reimbursed for lost revenues by the Universal Lifeline Telephone Service Trust Administrative Committee Fund at a tariffed rate of at least forty dollars (\$40) per subscriber, less any charges received by the carrier directly from the lifeline telephone service subscriber.

(3) For each additional lifeline telephone service subscriber served by the competitive local exchange carrier over 10,000, and up to 15,000, the competitive local exchange carrier shall be reimbursed for lost revenues by the Universal Lifeline Telephone Service Trust Administrative Committee Fund at a tariffed rate of at least thirty dollars (\$30), less any charges received by the carrier directly from the lifeline telephone service subscriber.

(4) For each additional lifeline telephone service subscriber served by the competitive local exchange carrier over 15,001, and up to 20,000, the competitive local exchange carrier shall be reimbursed by the Universal Lifeline Telephone Service Trust Administrative Committee Fund for lost revenues at a tariffed rate of at least twenty dollars (\$20), less any charges received by the carrier directly from the lifeline telephone service subscriber.

(5) For each additional lifeline telephone service subscriber over 20,000, the competitive local exchange carrier shall be reimbursed by the Universal Lifeline Telephone Service Trust Administrative Committee Fund for lost revenues at a tariffed rate equal to the rate of the tariffed rates and charges for basic rate telephone service of the lifeline telephone service subscriber's incumbent local exchange carrier, less any charges received by the carrier directly from the lifeline telephone service subscriber.

(b) As used in this section, the following terms have the following meanings:

(1) "Incumbent local exchange carrier" has the same meaning as that term is defined in Section 251(h)(1) of Title 47 of the United States Code.

(2) "Competitive local exchange carrier" has the same meaning as the term "local exchange carrier," as defined in Section 153(26) of Title 47 of the United States Code. ~~amended to read:~~

~~—46201. (a) In each of the 1984-85, 1985-86, and 1986-87 fiscal years, for each school district that certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision at a grade level or~~

levels, the Superintendent of Public Instruction shall determine an amount equal to twenty dollars (\$20) per unit of current year second principal apportionment regular average daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars (\$40) per unit of current year second principal apportionment regular average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily attendance, the average daily attendance for pupils attending summer school, alternative school, regional occupational centers and programs, continuation high schools, or opportunity schools, and the attendance of pupils while participating in community college or independent study programs.

—(1) In the 1984-85 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

—(A) The number of instructional minutes offered at that grade level in the 1982-83 fiscal year.

—(B) One third of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982-83 fiscal year.

—(2) In the 1985-86 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

—(A) The number of instructional minutes offered at that grade level in the 1982-83 fiscal year.

—(B) Two thirds of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982-83 fiscal year.

—(3) In the 1986-87 fiscal year:

—(A) Thirty six thousand minutes in kindergarten.

—(B) Fifty thousand four hundred minutes in grades 1 to 3, inclusive.

—(C) Fifty four thousand minutes in grades 4 to 8, inclusive.

—(D) Sixty four thousand eight hundred minutes in grades 9 to 12, inclusive.

—(4) In any fiscal year, each school district that receives an apportionment pursuant to subdivision (a) for average daily attendance in grades 9 to 12, inclusive, shall offer a program of instruction that allows each student to receive at least 24 course years of instruction, or the equivalent, during grades 9 to 12, inclusive.

—(5) For any schoolsite at which programs are operated in more than one of the grade levels enumerated in subparagraph (B) or (C) of paragraph (3), the school district may calculate a weighted average of minutes for those grade levels at that schoolsite for purposes of making the certification authorized by this subdivision.

—(b) (1) For any school district that receives an apportionment pursuant to subdivision (a) in the 1984-85 fiscal year and that reduces the amount of instructional time offered below the minimum

~~amounts specified in paragraph (1) of subdivision (a) in the 1985-86 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985-86 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1985-86 fiscal year and fiscal years thereafter.~~

~~—(2) For each school district that receives an apportionment pursuant to subdivision (a) in the 1985-86 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1986-87 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986-87 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1986-87 fiscal year and fiscal years thereafter.~~

~~—(3) For each school district that receives an apportionment pursuant to subdivision (a) in the 1986-87 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (3) of subdivision (a) in the 1987-88 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987-88 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1987-88 fiscal year and fiscal years thereafter.~~

~~—SEC. 2. Section 46202 of the Education Code is repealed.~~